

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

FINAL AGENCY ORDER O-04-131

IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF COLORADO CASUALTY INSURANCE COMPANY,

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of Colorado Casualty Insurance Company (the "Respondent"), pursuant to §§ 10-1-201 to 207, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated October 15, 2003 (the "Report"), relevant examiner work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

FINDINGS OF FACT

1. At all relevant times, the Respondent was a corporation licensed by the Division to conduct all lines of property and casualty insurance.
2. In accordance with §§ 10-1-201 to 207, C.R.S., on October 15, 2003, the Division completed a market conduct examination of the Respondent. The period of examination was January 1, 2002 to December 31, 2002.
3. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
4. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners handbook. The Commissioner also employed other guidelines and procedures that he deemed appropriate, pursuant to § 10-1-204(1), C.R.S.

5. The market conduct examiners prepared the Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons examined, or as ascertained from the testimony of the Respondent's officers or agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
6. Respondent delivered to the Division written submissions and rebuttals to the Report.
7. The Commissioner has fully considered and reviewed the Report, all of Respondent's submissions and rebuttals, and all relevant portions of the examiner's work papers.

CONCLUSIONS OF LAW AND ORDER

8. Unless expressly modified in this Final Agency Order (the "Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the Report. A copy of the Report is attached to the Order and is incorporated by reference.
9. Issue A concerns the following violation: Failure to maintain some records for market conduct examinations. The Respondent shall provide evidence that it amended its procedures regarding maintenance of records to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
10. Issue B concerns the following violation: Using a form that was not certified for use during the period under examination. The Respondent shall provide evidence that it amended its procedures regarding certification and use of policy forms to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
11. Issue C concerns the following violation: Failure to have a policy form or an endorsement attached to the policy that describes the limitations and applicable penalties if a cost containment option is chosen and not used. Because of the repeal of the PIP law, no further action concerning forms or endorsements describing limitations and applicable penalties if a cost containment option is chosen is necessary or applicable as pertains to this Order.
12. Issue D concerns the following violation: Using a rating component that was not filed during the period under examination. Since the Respondent is no longer

using this program, no further action concerning the filing of a rate component is necessary or applicable as pertains to this Order.

13. Issue E concerns the following violation: In some cases, canceling a dwelling fire policy for reasons not permitted by the policy conditions. The Respondent shall provide evidence that it amended its procedures regarding cancellation of dwelling fire policies to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
14. Issue F concerns the following violation: Failure to comply with notice requirements when non-renewing auto policies. The Respondent shall provide evidence that it amended its notices regarding non-renewal of private passenger auto policies to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
15. Issue G concerns the following violation: Failure, in some cases, to offer to exclude the person with the claim or driving record problem and continue coverage for another household member. The Respondent shall provide evidence that it offered a named driver exclusion in those cancellations warranted and implemented necessary changes in order to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
16. Issue H concerns the following violation: Failure, in some cases, to obtain a signed PIP cost containment form. The Respondent shall provide evidence that it adopted and implemented procedures regarding PIP cost containment forms to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
17. Issue I concerns the following violation: Failure, in some cases, to provide equitable settlements of claims in which liability has become reasonably clear. The Respondent shall provide evidence that it adopted and implemented claims settlement procedures to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation. Respondent shall perform a self-audit of claims settlements as they relate to this violation for the time period beginning January 1, 2003 through January 30, 2004. Respondent shall submit a summary of the findings to the Division on or before May 1, 2004.
18. Issue J concerns the following violation: Failure, in some cases, to send a letter to the claimant and/or health care provider setting forth reasons why additional time is needed to investigate a claim. The Respondent shall provide evidence that it

amended its claims investigation settlement procedures to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.

19. Issue K concerns the following violation: Failure, in some cases, to pay personal injury protection benefits in the timely manner required by Colorado insurance law. The Respondent shall provide evidence that it amended its procedure regarding payment of personal injury protection (PIP) benefits to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
20. Issue L concerns the following violation: Failure, in some cases, to act reasonably promptly upon communications with respect to claims arising under insurance policies. The Respondent shall provide evidence that it adopted and implemented claims handling procedures to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
21. Pursuant to § 10-1-205(3)(d), C.R.S., Respondent shall pay a civil penalty to the Division in the amount of twenty-six thousand five hundred and 00/100 dollars (\$26,500.00) for the cited violations of Colorado law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division bulletin no. 1-98, issued on January 1, 1998.
22. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Order, the Respondent shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.
23. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as specifically noted in the Order. Copies of any rate and form filings shall be provided to the rate and forms section with evidence of the filings sent to the market conduct section. All audits shall be performed in accordance with Division guidelines. Unless otherwise specified in this Order, all audit reports must be received within ninety (90) days of the Order, with a summary of the findings, including all monetary payments to covered persons.
24. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions as provided for by law.

25. Copies of the examination report, the Respondent's response, and this final Order will be made available to the public no earlier than thirty (30) days after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

WHEREFORE: It is hereby ordered that the findings and conclusions contained in the final examination report dated October 15, 2003, are hereby adopted and filed and made an official record of this office and the above Order is hereby approved this 30th day of January, 2004.

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean
Commissioner of Insurance

CERTIFICATE OF MAILING

I hereby certify that on the 30th day of January, 2004, I deposited the **Final Agency Order No. O-04-131 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF COLORADO CASUALTY INSURANCE COMPANY**, in the United States Mail with postage affixed and addressed to:

Mr. Donald E. Frette, President
Colorado Casualty Insurance Company
10700 E. Geddes Avenue, Suite 300
Englewood, CO 80112

Ms. Kelly Schilling
Colorado Casualty Insurance Company
10700 E. Geddes Avenue, Suite 300
Englewood, CO 80112

Ms. Jeri Brown
Colorado Casualty Insurance Company
10700 E. Geddes Avenue, Suite 300
Englewood, CO 80112



Dolores Arrington, MA, AIRC
Division of Insurance
Market Conduct Section